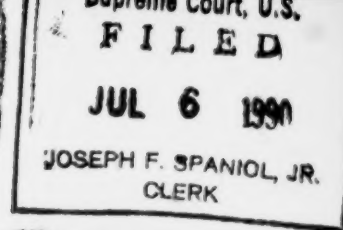


90-87



NO. _____

SUPREME COURT OF THE UNITED STATES

OCTOBER 1989 TERM

JOSEPH M. WARD

PETITIONER-PLAINTIFF

V

HILLHAVEN, INC., THE HILLHAVEN
CORPORATION, NATIONAL MEDICAL
ENTERPRISES, INC., WILLIAM
MCCONNELL, JR. AND JEFFREY M.
MCCAIN

DEFENDANTS

PETITION FOR WRIT OF CERTIORARI TO
THE NORTH CAROLINA SUPREME COURT

APPENDIX TO PETITION FOR
WRIT OF CERTIORARI

JOSEPH M. WARD
PRO SE
• 403 EDGEWOOD DRIVE
AYDEN, N.C. 28513
TELEPHONE: (919) 746-2019



INDEX

Order Granting Rule 12 (b) (6) of Dismissal Of All Of Petitioner- Plaintiff's Claims (Petition pp 1, 2, 6, 7) -----	1-2
North Carolina Court Of Appeals Opinion Affirming Trial Court's Dismissal Of All Of Petitioner- Plaintiff's Claim (Petition pp 1, 2, 8) -----	3-11
Order Of North Carolina Supreme Court Dismissing Petitioner- Plaintiff's Appeal And Denying His Petition For Discretionary Review (Petition pp 1, 9-10) -----	12-13
Petitioner's Amended Complaint (Petition pp 4, 10-14, 15, 32-48,55)-	14-66
Petitioner's Assignment Of Error (Petition p 19) -----	67



STATE OF NORTH CAROLINA

PITT COUNTY

FILE NO. 88 CVS 560
FILM NO. _____
IN THE GENERAL
COURT OF JUSTICE
SUPERIOR COURT
DIVISION

JOSEPH M. WARD;

Plaintiff,

v.

HILLHAVEN, INC.; THE
HILLHAVEN CORPORATION:
NATIONAL MEDICAL ENTER-
PRISES, INC.; WILLIAM
MCCONNELL, JR.; AND
JEFFREY M. MCKAIN:

Defendants.

) ORDER GRANTING
) DEFENDANTS' MO-
) TION TO DISMISS

THIS CAUSE COMING ON TO BE HEARD before the undersigned Judge presiding at the September 30, 1988 Civil Session of the Superior Court of Pitt County, upon the motion of defendants Hillhaven, Inc., et al. to dismiss this action in its entirety pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure (N.C. Gen. Stat. § A-1, Rule (b)(6), and the Court, having carefully reviewed the record and said Motion to Dismiss, having heard the arguments of the parties, and having taken the matter under advisement; and the Court having determined further that said

Motion To Dismiss should be granted;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that defendants' Motion to Dismiss be and hereby is, granted with prejudice in its entirety.

This the 8th day of May ,
1989.

S/David E. Reid, Jr.
DAVID E. REID, JR.
PRESIDING JUDGE

NO. 893SC663

NORTH CAROLINA COURT OF APPEALS

Filed: 16 January 1990

JOSEPH M. WARD

v.

Pitt County
No. 88CVS560

HILLHAVEN, INC. THE HILL-
HAVEN CORPORATION, NATIONAL
MEDICAL ENTERPRISES, INC.,
WILLIAM MCCONNELL, JR.,
JEFFREY MCKAIN

Appeal by plaintiff from order entered 8 May 1989 by Judge David E. Reid, Jr., in Pitt County Superior Court. Heard in the Court of Appeals 6 December 1989.

Plaintiff Joseph M. Ward, who is proceeding pro se, appeals from a order dismissing his complaint against defendants Hillhaven, Inc.; The Hillhaven Corporation, National Medical Enterprises, Inc.; William McConnell, Jr., administrator of University Nursing Center; and Jeffrey M. McKain, vice president of Hillhaven, Inc. and The Hillhaven Corporation. Plaintiff's amended complaint alleged various tortious

and contractual claims against defendants. On 9 June 1988, defendants filed a motion with supporting memorandum for an order dismissing plaintiff's complaint on the ground of failure to state a claim upon which relief can be granted. N.C.G.S. § 1A-1, Rule 12 (b) (6). A lengthy hearing on defendant's motion was held in Pitt County Superior court on 30 September 1988. Judge Reid issued an order dated 8 May 1989, granting defendants' motion to dismiss, and Dr. Ward appealed.

Dr. Ward's allegations focus on his employment as Medical Director at University Nursing Center in Pitt County from 1981 through 1987 and his status as an attending physician of patients at the Center. Although the facts before us are difficult to understand, it appears that appellant's complaints focus on the following areas:

(1) In April 1987 appellees attempted to alter the treatment appellant prescribed for one of his patients,

attempted to transfer this patient to another facility, and made several unidentified false statements, inferences, intimations or suggestions to third parties concerning appellant's care of the patient;

(2) In March 1987 appellees "wrongfully" allowed a podiatrist to enter University Nursing Center and treat a number of patients, including one of the appellant's;

(3) In September 1987, after appellant wrote an order directing that one of his patients be transported to a radiology facility, appellees failed to provide such transportation, and attempted to "wrongfully induce" appellant to order unnecessary ambulance transportation to accomplish the trip;

(4) After appellant resigned as Medical Director at the Center, appellees began to negotiate with Pitt Family Physicians to assume the duties of Medical Director. Appellant alleges this action

interfered with a long-standing contract he had with Pitt Family Physicians involving the swapping of weekend on-call coverage;

(5) Beginning in March 1987, appellees altered procedures relating to the medical care of appellant's patients without seeking input from appellant; and

(6) Appellees mismanaged various legal actions brought by third parties against University Nursing Center, and that appellees planned to have appellant resign to assist in settling some of this litigation.

Joseph M. Ward for plaintiff appellant.

McKenna, Conner & Cuneo, by Robert Fabrikant, T. Mark Flanagan, Jr. and Patrick M. Sheller; and Dixon, Duffus & Doub, by J. David Duffus, Jr., for defendant appellees.

ARNOLD, Judge.

Appellant asserts two claims for relief that are unrecognized in North Carolina. In *Renwick v. News and Observer* and *Renwick v. Greensboro News*, 310 N.C. 312, 312 S.E.2d 405, cert. denied, 469 U.S. 858, 83 L.Ed. 2d 121 (1984), our Supreme Court specifically declined to recognize "false light invasion of privacy" as a cause of action in North Carolina. This decision was recently reaffirmed in *Hall v. Post*, 323 N.C. 323 N.C. 259, 372 S.E.2d 711 (1988). Second, we are unaware of any North Carolina case law recognizing a claim of "solicitation of fraud."

Under those causes of action that are recognized in North Carolina, appellant has failed to allege facts to support the necessary elements. Dr. Ward's claim of libel against the appellees fails because he did not allege any type of publication. See *Arnold v. Sharpe*, 296 N.C. 533, 251 S.E.2d 452 (1979). A claim for slander must repeat

with "sufficient particularity" the alleged defamatory statements or words, and appellant failed to do this. *Stutts v. Duke Power Co.*, 47 N.C. App. 76, 266 S.E.2d 861 (1980). Similarly, the circumstances constituting an allegation for fraud must be "stated with particularity." N.C.G.S. § 1A-1, Rule 9(b) *Stanford v. Owens*, 76 N.C. App. 284, 332 S.E.2d 730, rev. denied, 314 N.C. 670, 336 S.E.2d 402 (1985). Appellant's statement of the events are too general and his allegations much too conclusory to satisfy Rule 9(b). To establish a claim for conspiracy, appellant must show that an agreement existed between two or more persons to do an unlawful act. *McAdams v. Blue*, 3 N.C. App. 169, 164 S.E.2d 490 (1968). Dr. Ward's complaint does not identify an agreement among the appellees, nor do his allegations demonstrate that any unlawful act occurred.

To support a claim for the intentional infliction of emotional distress,

plaintiff must allege that defendant (1). committed an extreme or outrageous act, (2) which was intended to cause and resulted in, (3) severe emotional disturbance in another person. *Matthews v. Johnson Publishing Co.*, 89 N.C. App. 522, 366 S.E.2d 525, rev. denied, 322 N.C. 836, 731 S.E.2d 278 (1988). Conduct is "extreme and outrageous" when it "exceeds all bounds usually tolerated by decent society." *Stanback v. Stanback*, 297 N.C. 181, 196, 254 S.E.2d 611, 622 (1979). None of Dr. Ward's allegations against the appellees rise to the level of extreme or outrageous conduct.

Appellant also makes breach of contract and interference with contract claims, but again fails to plead facts to support these theories. His ambiguous references do not provide appellees with reasonable notice concerning the nature of these contracts or the particular aspects of these contracts which were breached. Similarly, his

complaint fails to identify how appellees induced third persons to breach their alleged contracts with him. The mere assertion of a grievance is insufficient to state a claim upon which relief can be granted. *Alamance County v. N.C. Dept. of Human Resources*, 58 N.C. App. 748, 294 S.E.2d 377 (1982); see N.C.G.S. § 1A-1, Rule 8(a)(1). Despite the liberal nature of the concept of notice pleading, a complaint must nonetheless state enough to give the substantial elements of at least some legally recognizable claim or it is subject to dismissal under Rule 12(b)(6). Stanback, 297 N.C. 181, 254 S.E.2d 611.

Appellant raises several constitutional claims for the first time in his brief. We will not consider these arguments because they were not presented to or considered by the trial court nor were they preserved in the record on appeal. N.C. R. App. P. 10(a) and (b); *Ratton v. Ratton*, 73 N.C. App. 642, 327 S.E.2d 1 (1985). Finally,

we note that appellant did not comply with N.C. Rule of Appellate Procedure 28(b)(5) which requires that relevant authority be cited to support assignments of error. Unsupported assignments of error are taken as abandoned. *Byrne v. Bordeaux*, 85 N.C. App. 262, 354 S.E.2d 277 (1987).

Affirmed.

Judges PHILLIPS and GREENE concur.

Report per Rule 30 (e).

SUPREME COURT OF NORTH CAROLINA

JOSEPH M. WARD)	
)	
v.)	<u>From Pitt</u>
)	(893SC663)
HILLHAVEN, INC., THE)	
HILLHAVEN CORPORATION,)	
NATIONAL MEDICAL EN-)	
TERPRISES, INC.,)	
WILLIAM MCCONNELL, JR.)	
JEFFREY MCKAIN)	
)	

ORDER

Upon consideration of the notice of appeal from the North Carolina Court of Appeals, filed by the Plaintiff in this matter pursuant to G.S. 7A-30, and the motion to dismiss the appeal for Defendants; and upon consideration of the petition for discretionary review of the decision of the North Carolina Court of Appeals, filed by Plaintiff pursuant to G.S. 7A-31, the following order was entered and is hereby certified to the North Carolina Court of Appeals: the motion to dismiss the appeal is

"Allowed by order of the
Court in conference, this
the 5th day of April 1990.

s/ Webb, J.
For the Court"

The Petition for Discretionary Review is:

"Denied by order of the
Court in conference, this
the 5th day of April 1990.

s/ Webb, J.
For the Court"

WITNESS my hand and the seal of the
Supreme Court of North Carolina, this the
9th day of April 1990.

J. GREGORY WALLACE
Clerk of the Supreme Court

Copy to:

North Carolina Court of Appeals

Mr. Joseph M. Ward, pro se

Dixon, Duffus & Doub, Attorneys at Law,

For the Defendants

McKenna, Conner & Cuneo, Attorneys at Law,

For the defendants

Mr. Ralph A. White, Appellate Court Reporter

West Publishing Company

Mead Data Corporation

NORTH CAROLINA

PITT COUNTY

JOSEPH M. WARD
Plaintiff

IN THE GENERAL
COURT OF
JUSTICE SUPERIOR
COURT
DIVISION FILE
NO. 88CVS560

vs.

AMENDED
COMPLAINT AND DEMAND
FOR JURY TRIAL

HILLHAVEN, INC., THE HILLHAVEN
CORPORATION, NATIONAL MEDICAL
ENTERPRISES, INC., WILLIAM
MCCONNELL, JR.
JEFFREY M. MCAIN
Defendants

The PLAINTIFF, complaining of the Defendants, alleges and says:

THE PARTIES

1. Plaintiff is a resident of Pitt County, North Carolina. He is a physician duly licensed to practice medicine in North Carolina. He practices family medicine in Pitt County, North Carolina. From about July 1, 1981 until May 16, 1987, he served as Medical Director at University Nursing Center (hereinafter referred to as the "nursing center" at times) in Pitt County, North Carolina

on a regular basis. As Medical Director, the Plaintiff provided consultive services to University Nursing Center and served on several committees. From 1981 until the present time, the Plaintiff has been the attending physician of a varying number of residents of University Nursing Center.

2. Defendant Hillhaven, Inc. is a Delaware corporation. Since 1984, or longer, Hillhaven, Inc. has managed University Nursing Center located in Pitt County, North Carolina. In or about December, 1986, Hillhaven, Inc. became the owner and operator of University Nursing Center. The facility had previously been owned by University Nursing Center, Inc. Hillhaven, Inc. is a wholly owned subsidiary of The Hillhaven Corporation, a Tennessee corporation. The Hillhaven Corporation is a wholly owned subsidiary of National Medical Enterprises, Inc., a Nevada corporation.

3. Defendant Jeffrey M. McKain is

an employee and a vice president of Hillhaven, Inc. and/or The Hillhaven Corporation.

4. Defendant William McConnell, Jr. is a Hillhaven, Inc. employee and/or agent and serves as administrator of University Nursing Center.

THE FACTS

5. On January 19, 1987, Robert Edmondson, Jr. was admitted to University Nursing Center. At that time, he was chronically and seriously ill with multiple problems, including a severe organic brain syndrome, with no chance of major improvement. The Plaintiff was his attending physician during that stay at University Nursing Center.

6. On February 10, 1987, Robert Edmondson, Jr. sustained an intertrochanteric fracture of his right hip and was transferred to Pitt County Memorial Hospital for treatment. While in the hospital, he

was placed on a "no code" status. Robert Edmondson, Jr. returned to University Nursing Center on February 25, 1987

with the Plaintiff again being his attending physician. At the time of that admission, it was clearly apparent to the Plaintiff that no significant improvement in his condition could be expected.

7. After Robert Edmondson, Jr. was readmitted to University Nursing Center, the Plaintiff visited him at appropriate intervals and issued appropriate orders for his care on a continuing basis. The Plaintiff discussed the hopelessness of Robert Edmondson, Jr.'s situation and the futility of aggressive attempts to rehabilitate him with members of the nursing staff on a number of occasions.

8. On April 10, 1987, the Plaintiff signed a "no code" order for Robert Edmondson, Jr.

9. On April 15, 1987, near the end of a difficult and frustrating work day

during which University Nursing Center was inspected by attorneys and consultants representing the plaintiffs in a class action against University Nursing Center, the Plaintiff met with Sharon Huston, University Nursing Center Director of Nurses, at her instigation. Sharon Huston informed the Plaintiff that she wanted to discuss Robert Edmondson, Jr.'s diet. The Plaintiff, tired from a trying day and knowing the futility of the situation and having explained this to members of the nursing staff on multiple occasions, elected not to discuss this matter with Sharon Huston at that point in time.

10. On information and belief, at the time of the meeting between Director of Nursing Sharon Huston and the Plaintiff referred to in paragraph 9 hereinabove, Sharon Huston had in her possession a written recommendation from the University Nursing Center pharmacy consultant Jan Childress which erroneously recommended a change in

medication for Robert Edmondson, Jr. The Plaintiff had never seen this document at that point in time and did not see it until April 22, 1987 when he found this document wrongfully filed in the consultation section of Robert Edmondson, Jr.'s medical record. This document contains a handwritten note over Sharon Huston's signature which contends that she attempted to discuss the pharmacy consultant's recommendation with the Plaintiff at 3:30 P.M. on April 15, 1987. This contention is false and/or distorted.

11. On information and belief, a meeting occurred in the office of Defendant William McConnell, Jr. at University Nursing Center at about 4 P.M. on April 15, 1987. On information and belief, present were Defendant McConnell, Hillhaven District Director Connie Hopkins, Defendant McKain, University Nursing Center Director of Nursing Sharon Huston and Rich Feinstein, legal counsel to Defendant Hillhaven, Inc. On informa-

tion and belief, at this meeting false statements indicating that the Plaintiff had failed to issue orders necessary to the proper health care of Robert Edmondson, Jr. were made by one or more of those present. On information and belief, a wrongful decision was made at this meeting to give five days notice to Robert Edmondson, Jr.'s son, Robert Edmondson, III, that Robert Edmondson, Jr. would have to leave University Nursing center, allegedly because the nursing center was no longer able to provide the care needed by Robert Edmondson, Jr. In fact, there were no valid grounds for a contention that University Nursing Center was unable to provide the care needed by Robert Edmondson, Jr.

12. On information and belief, on April 16, 1987, without having notified the Plaintiff concerning the planned forced discharge, Defendant McConnell telephoned Robert Edmondson, III and told him that he was going to receive five days written notice

that Robert Edmondson, Jr. was being discharged from University Nursing Center because of the nursing center's inability to provide the services needed by Robert Edmondson, Jr. On information and belief, during this conversation Defendant McConnell falsely stated, or falsely inferred, or falsely intimated, or falsely suggested, that the Plaintiff had not properly ordered medication and dietary measures necessary to the proper care of Robert Edmondson, Jr. On information and belief, Defendant McConnell inferred, or intimated, or suggested that the decision that Robert Edmondson, Jr. would have to leave University Nursing Center might be reversed if a new physician was engaged to be his attending physician.

13. On information and belief, on or about April 17, 1987 Robert Edmondson, Jr.'s mother, Sybil Edmondson, discussed pending involuntary discharge from University Nursing Center with Defendant McConnell. On information and belief, during this conversation, Defendant William McConnell

falsely stated, or falsely suggested, or falsely intimated, or falsely inferred that Robert Edmondson, Jr. was going to be discharged because of the Plaintiff's failure to order proper medication and diet for him. Further, on information and belief, Defendant McConnell indicated to Sybil Edmondson that the planned forced discharge of Robert Edmondson, Jr. might be cancelled if the family found a new attending physician for him, thereby falsely indicating that the Plaintiff was not providing proper professional services for Robert Edmondson, Jr. Further, on information and belief, Defendant McConnell wrongfully provided Sybil Edmondson with a list of other Pitt County Physicians who might be contacted in an effort to find a new attending physician for Robert Edmondson, Jr.

14. The Plaintiff first heard about the planned forced discharge of Robert Edmondson, Jr. from University Nursing Center during a telephone conversation with Robert Edmondson, III on April 21, 1987. The

Plaintiff was shocked by the false allegation that Robert Edmondson, Jr. was not receiving proper care at University Nursing Center. On April 23, 1987, the Plaintiff received a copy of a letter addressed to Robert Edmondson, Jr.'s son and dated April 21, 1987 which contained a notice that Robert Edmondson, Jr. would have to leave University Nursing Center by 12:00 P.M. on April 27, 1987. This letter contains a false statement indicating that University Nursing Center was unable to properly care for Robert B. Edmondson, Jr.

15. On April 22, 1987, the Plaintiff discussed the planned forced discharge of Robert Edmondson, Jr. with Defendant McConnell. Defendant McConnell stated that University Nursing Center's Consultants had informed him that Robert Edmondson Jr.'s needs were not being met at the nursing center. On information and belief, the consultants had erroneously recommended a change in pancreatic enzyme medication and a change in the

patient's diet. In fact, no change in the pancreatic enzyme medication or diet was needed. Defendant McConnell indicated that the Plaintiff's refusal to order the changes in medication and diet proposed by consultants to the nursing home management had caused management to make a decision to force Robert Edmondson, Jr. to leave University Nursing Center. When asked by the Plaintiff what consultants were involved, Defendant McConnell replied that the consultants relied upon were his nursing consultant, dietary consultant and pharmacy consultant. On information and belief, no physician input was sought by Hillhaven management in connection with the planned forced discharge of Robert Edmondson, Jr. Physician input from the Plaintiff should have been obtained before a decision was made to force Robert Edmondson to leave University Nursing Center. The Plaintiff's refusal to implement the medication and dietary changes recommended by

University Nursing Center's non-physician consultants did not constitute grounds for a forced discharge of Robert Edmondson, Jr. or a forced change of physicians in order to avoid a forced discharge of Robert B. Edmondson, Jr. from the nursing center. Defendant McConnell, Defendant McKain, Director of Nursing Sharon Huston and District Director Connie Hopkins knew, or should have known that this was true at that point in time.

16. During the conversation referred in paragraph 15. above, Defendant McConnell told the Plaintiff that Robert Edmondson Jr. was not going to die at University Nursing Center.

17. On April 22, 1987, at the Plaintiff's instigation, a consultation with Wayne Kendrick, M.D., an internal medicine specialist and nephrologist, occurred regarding the care of Robert Edmondson, Jr. Dr. Kendrick, Robert Edmondson, Jr.'s past personal physician for a number of years, agreed

with the Plaintiff's contention that Robert Edmondson, Jr. was terminally and hopelessly ill and recommended no changes in his therapy or diet. On information and belief, Director of Nursing Sharon Huston telephoned Dr. Kendrick on April 23, 1987 and attempted to get him to change his position regarding the lack of need for dietary change for Robert Edmondson, Jr. On information and belief, District Director Connie Hopkins and Defendant McConnell became informed regarding the consultation of Dr. Kendrick concerning the care of Robert Edmondson, Jr. and regarding Dr. Kendrick's recommendation before 1:30 P.M. on April 24, 1987.

18. On April 24, 1987 at about 12:30 P.M. the Plaintiff issued a telephone order for a consultation with Mark Della-sega, M.D., an internal medicine specialist and gastroenterologist, regarding the care of Robert Edmondson, Jr. The Plaintiff, in an effort to prevent the planned

forced discharge of Robert Edmondson, Jr., also issued a telephone order that Robert Edmondson, Jr. was to be transferred to the service of Wilt Gay, M.D. when the order was countersigned by Dr. Gay or one of his associates. On information and belief, Defendant McConnell and District Director Connie Hopkins became informed regarding these orders before 1:30 P.M. on April 24, 1987.

19. On April 24, 1987, the consultation with Mark Dellasega, M.D. referred to under paragraph 18 hereinabove occurred. Dr. Dellasega, who had treated Robert Edmondson, Jr. during a hospitalization just before his first admission to University Nursing Center, agreed with the Plaintiff's contention that Robert Edmondson, Jr. was terminally and hopelessly ill and recommended no changes in his therapy or diet.

20. Based on information and belief, because of the countermeasures of the Plaintiff referred to under paragraphs 17, 18

and 19 hereinabove, on or before April 24, 1987 communication occurred between Defendant McConnell and District Director Connie Hopkins and possibly Defendant McKain and/or Director of Nursing Sharon Huston regarding the planned forced discharge of Robert Edmondson, Jr. and a decision to cancel his planned forced discharge from University Nursing Center was made. On information and belief, a plan to falsely claim that this decision was based on stabilization of Robert Edmondson, Jr.'s weight plus the discovery of a method by which his pancreatic enzymes could be administered was agreed upon by Defendant McConnell and District Director Connie Hopkins with or without the input of Defendant McKain and/or Director of Nursing Sharon Huston.

21. Based on information and belief, on April 24, 1987 at about 3:30 P.M., Defendant McConnell telephoned Robert Edmondson, III and informed him that Robert

Edmondson, Jr.'s planned forced discharge from University Nursing Center had been cancelled. On information and belief, Defendant McConnell falsely stated to Robert Edmondson, III that the decision to cancel the planned forced discharge was based on Robert Edmondson, Jr.'s weight having stabilized plus the discovery of a proper method by which Robert Edmondson, Jr.'s pancreatic enzymes could be administered. In fact, neither the failure to stabilize Robert Edmondson's weight nor failure to administer any pancreatic enzymes would have constituted reasonable grounds for a forced discharge of Robert Edmondson, Jr. from University Nursing Center. At the time of the telephone call, Defendant McKain, Defendant McConnell, Director of Nursing Sharon Huston and District Director Connie Hopkins knew, or should have known, that there had been no valid grounds for the planned forced discharge of Robert Edmondson, Jr. from University Nursing Center. Further, on information and belief,

at that point in time, Defendant McConnell, Defendant McKain, District Director Connie Hopkins and Director of Nursing Sharon Huston knew, or should have known, that Plaintiff had not changed the pancreatic enzyme order of Robert Edmondson, Jr. and that the enzymes were still being administered by the same method used during the preceeding several weeks.

22. Based on information and belief, during the telephone conversation with Robert Edmondson, III described under paragraph 21 hereinabove, Defendant McConnell deliberately and wrongfully failed to mention that the Plaintiff had brought in one medical consultant who had agreed that only terminal care was indicated for Robert Edmondson, Jr. and that another medical consultation had been ordered by the Plaintiff plus the fact that the Plaintiff had found a new attending physician for Robert Edmondson, Jr., all of this being information that was known by

Defendant McConnell and District Director Connie Hopkins at that point in time.

23. On April 25, 1987, Wilton Gay, M.D. replaced the Plaintiff as Robert Edmondson, Jr.'s attending physician. Dr. Gay made no major changes in the orders for his care at University Nursing Center. On May 7, 1987 Robert Edmondson, Jr. died at University Nursing Center.

24. On information and belief, in about March, 1987, Director of Nursing Sharon Huston wrongfully slipped a standing order for podiatry care into the middle of a set of orders that had been prepared for one of the Plaintiff's patients at University Nursing Center. The Plaintiff refused to sign this order and made it clear that he would not approve any standing orders for podiatry care of the Plaintiff's patient and that his patients were not to receive care from a podiatrist without a specific order for such care. About two weeks later, the

administration wrongfully allowed a podiatrist to enter University Nursing Center and treat a number of University Nursing Center residents, including one of the Plaintiff's patients, without such consultation services having been ordered by the attending physicians.

25. On September 11, 1987, the Plaintiff wrote an order that Willie Epps, a University Nursing Center resident who was one of the Plaintiff's patients residing at University Nursing Center, be transported by automobile to a Eastern Radiologists, Inc. office in Greenville, N.C. for a chest x-ray. It was the duty and legal obligation of Defendant Hillhaven, Inc. to make arrangements for such transportation and to do so in a timely manner. The needed transportation was not arranged in a timely manner. An effort to wrongfully induce the Plaintiff to order unnecessary ambulance transportation for Willie Epps to Eastern Radiologists was

made by Defendant William McConnell plus Elliott Dixon, M.D. and James Galloway, M.D. (acting in their capacity as Medical Director (s) of University Nursing Center). On information and belief, Hillhaven, Inc. wrongfully failed to timely contact the Nash County Department of Social Services (one of the reasonable sources of Willie Epps' needed transportation) regarding Willie Epps' need for transportation and did not so do until October 2, 1987.

26. On October 3, 1987, the Plaintiff went to University Nursing Center, informed a nurse that he was going to transport Willie Epps to Eastern Radiologists for a chest x-ray, loaded Willie Epps in his car with the help of a University Nursing Center male attendant, transported Willie Epps to Eastern Radiologists, where chest x-rays were taken, and then transported him back to University Nursing Center.

27. Shortly after the Plaintiff

gave defendant McConnell notice of the Plaintiff's resignation as Medical Director at University Nursing Center on April 16, 1987, Defendant McConnell and District Director Connie Hopkins wrongfully began to negotiate with Pitt Family Physicians, P.A. to assume the duties of Medical Director at University Nursing Center. At the time the negotiations began, Defendant McConnell and District Director Hopkins knew, or should have known, that the Plaintiff had a long standing contractual agreement with Pitt Family Physicians involving on call coverage. Under this agreement, which dates back to 1969, the Plaintiff and physicians from Pitt Family Physicians, P.A. (formerly Dixon Medical Center) regularly swapped weekend coverage and at times provided other coverage for each other. At the time the negotiations between Defendant McConnell, District Director Hopkins, and Pitt Family Physicians, P.A. began, Defendant McConnell and District Director

Hopkins knew, or should have known, that the assumption as duties of medical director at University Nursing Center by Pitt Family Physicians would probably destroy the coverage agreement between the Plaintiff and Pitt Family Physicians. Further, Defendant McConnell and District Director Hopkins knew, or should have known, that Hillhaven, Inc. had an implied contractual obligation to the Plaintiff to make every reasonable effort not to damage the Plaintiff in connection with his professional activities not directly related to his duties as Medical Director at University Nursing Center, both while the Plaintiff was Medical Director and after the Plaintiff's resignation as Medical Director. In about June, 1987, Pitt Family Physicians tried to get the Plaintiff to agree to continue to swap weekend coverage at University Nursing Center after Pitt Family Physicians, P.A. had assumed duties as acting Medical Director at the nursing center. When the

Plaintiff refused to provide such new coverage, Pitt Family Physicians, P.A. terminated the on call coverage agreement that existed between the Plaintiff and Pitt Family Physicians, P.A.

28. Since about March, 1987, Defendant McConnell and/or other members of the Hillhaven, Inc. team managing University Nursing Center have repeatedly altered procedures in effect relating to the medical care of the Plaintiff's patients who are residents at University Nursing Center without seeking prior input from the Plaintiff. Some of such changes instituted have been unreasonable and/or unwise. The input of the Plaintiff should have been sought before such procedural changes were made. Some of the procedural changes occurred while the Plaintiff was Medical Director and some occurred later.

29. In dealing with past unfair accusations against and/or unfair assaults

upon University Nursing Center, upon its staff and upon the Plaintiff, Hillhaven, Inc. management at some level above former Administrator Kyle Dilday elected to take a benign and submissive political type of approach to the problem. Efforts were made to be careful not to antagonize any element of the media and to seek to enter the media's good graces when, in fact, Hillhaven, Inc. had good grounds to enter a legal action against two television stations alleging libel. For about three years, University Nursing Center's Hillhaven, Inc. management has failed to properly defend University Nursing Center and its staff in connection with unfair media criticism by Frank House and in connections with unfair media coverage concerning University Nursing Center. Further, Hillhaven, Inc. management failed to properly object when the Pitt County Nursing Home Community Advisory Committee illegally conducted hearings in about

September, 1985 at which complaints against University Nursing Center were heard with multiple complainants present and with some media representatives present during part of the hearings. The Plaintiff elected to take a more aggressive approach to defending himself, Kyle Dilday and University Nursing Center from unfair accusations and criticism. This was in conflict with the policy put into effect by Hillhaven, Inc. management.

30. During 1986 and 1987, Hillhaven, Inc. management failed to properly defend the nursing center when unreasonable citations and/or requests were made by governmental surveyors who inspected the nursing center.

31. During 1986 and 1987, Hillhaven, Inc. management failed to adequately defend itself as a defendant and failed to protect University Nursing Center residents and Hillhaven employees and agents, including

the Plaintiff, adequately in a class action, Pitt County 86-CVS-528, brought by Frank House and Carolyn James. Further, in that class action, Defendant McKain and Richard Feinstein, attorney for Hillhaven, agreed to supply a list of the Plaintiff's patients to Jack Hansel, attorney for the plaintiffs in that action, with the understanding that the list was to be used to avoid interviewing any more of the Plaintiff's patients at University Nursing Center. The consultants for the class action then proceeded to interview three more of the Plaintiff's patients and selected two records belonging to patients of the Plaintiff for review. The Plaintiff promptly complained concerning this matter to Defendant McKain and to Attorney Feinstein. On information and belief, neither of them took any action to correct the breach of the hereinabove referred to agreement by the consultants for the attorney of the class action plaintiffs.

32. Defendant Hillhaven, Inc., Defendant McKain and Defendant McConnell know or should know, that other area nursing homes not owned and not operated by Hillhaven, Inc. received inspection reports which were worse than University Nursing Center's inspection reports in connection with Medicare-Medicaid certification inspections performed by North Carolina Department of Facility Services personnel during the years 1985 through 1987. On information and belief, Defendant Hillhaven, Inc. management has not pointed out deficiencies of other area nursing homes to the media and/or governmental authorities.

33. On information and belief, a consideration in the wrongful decision, referred to under paragraph 11 hereinabove, that Robert Edmondson, Jr. would be forced to leave University Nursing Center was the fear of University Nursing Center management that the nursing center might be cited by

Medicare-Medicaid inspectors as having provided improper care for Robert Edmondson, Jr.; particularly for having allowed Robert Edmondson, Jr. to lose weight and/or as having failed to fatten him up. In fact, a citation against University Nursing Center based on weight loss by Robert Edmondson, Jr., or based on his failure to gain weight, would have been unjustified and Hillhaven management knew, or should have known, that this was true.

34. On information and belief, the wrongful acts and/or omissions described under paragraphs 20, 21 and 22 hereinabove occurred as a result of efforts on the part of Defendant McKain, and/or Defendant William McConnell and/or District Director Hopkins and/or Director of Nursing Sharon Huston to extract themselves and Defendant Hillhaven, Inc. from a dangerous legal situation in which all or part of them and Defendant Hillhaven, Inc. had been placed as

a result of wrongful acts and/or omissions on the part of all or some of them referred to under paragraph 11.

35. On information and belief, some of the acts and/or omissions referred to under paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 24, 25 and 28 hereinabove were carried out as part of a deliberate effort, by Defendant McConnell and/or Defendant McKain and/or other members of the Hillhaven, Inc. management team, to get the Plaintiff to resign as Medical Director at University Nursing Center and/or in an effort to get him to markedly restrict and/or terminate his activities as an attending physician at University Nursing Center. On information and belief, before the Plaintiff gave notice of his resignation as Medical Director at University Nursing Center on April 16, 1987, Defendant McKain, Defendant McConnell and/or some other members of the Hillhaven, Inc. management team felt that the resignation of

the Plaintiff as Medical Director and the restriction and/or termination of the Plaintiff's activities as an attending physician at University Nursing Center might be helpful in settling a class action suit in which Hillhaven, Inc. was (and is) a defendant.

36. At the times all of the wrongful acts and/or omissions referred to herein occurred, contracts were in effect between University Nursing Center, Inc. and/or Hillhaven, Inc. and the Plaintiff. Before it became the owner of University Nursing Center, Hillhaven, Inc. was bound by the provisions of the contracts in effect between University Nursing Center, Inc. and the Plaintiff. When Hillhaven, Inc. became owner of the University Nursing Center, it assumed the contracts in effect between University Nursing Center, Inc. and the Plaintiff. An implied provision of one of the contracts in effect required Hillhaven, Inc. not to interfere with the

physician-patient relationship and the contracts that existed between the Plaintiff and the Plaintiff's patients and to be careful to try to avoid any acts and/or omissions which could be construed by the Plaintiff's patients and/or their families and/or their agents to represent criticism of the Plaintiff as the attending physician of any or all such patients unless such acts and/or omissions were, in fact, essential to the welfare and safety of one or more of the Plaintiff's patients who were residents at University Nursing Center. Further, at the times of all the wrongful acts and/or omissions referred to herein, Hillhaven Inc. was obligated by implied contractual provisions to make reasonable efforts to properly defend the reputation of the Plaintiff, the reputations of University Nursing Center and its own reputation when under unfair attack. Further, at the times of all the wrongful acts and/or omissions referred to herein,

Hillhaven, Inc. was obligated by law and by implied contract (s) to see that each resident at University Nursing Center had an attending physician and that each resident's health care was based upon the orders of his or her attending physician. Further, at times of all the wrongful acts and/or omissions referred to herein, implied and/or express provisions in the contracts in effect between Hillhaven, Inc. and the Plaintiff provided that Hillhaven, Inc. could terminate the Plaintiff's contract as Medical Director without cause but could terminate the Plaintiff's contract as an attending physician at University Nursing Center only for proper cause. Further, implied provisions of the contracts in effect at the times of all the wrongful acts and/or omissions referred to herein required that Hillhaven, Inc. make reasonable efforts to cooperate with the Plaintiff and make reasonable efforts to avoid burdening the

Plaintiff with unnecessary red tape and to make reasonable efforts to avoid harrassment of the Plaintiff.

37. At the times all of the wrongful acts and/or omissions referred to herein occurred, each person (s) involved in such act (s) and/or omission (s) was acting as an employee and/or servant and/or agent of Defendant Hillhaven, Inc.

38. Hillhaven, Inc is responsible for the wrongful acts and/or omissions of its employees and/or servants and/or agents as Respondeat Superior.

39. From the time he became Medical Director in 1981 until shortly before his resignation, the Plaintiff strongly defended University Nursing Center and its management and loyally and ably performed his duties as Medical Director. In addition, the Plaintiff has served ably as the attending physician of many University

Nursing Center residents from 1981 until the present time.

40. Because the Plaintiff has been so closely identified with University Nursing Center, any public criticism of the nursing center can be fairly construed to be criticism of the Plaintiff. This situation has existed at least since January, 1985

FIRST CLAIM FOR RELIEF
(Libel And Slander)

41. This First Claim For Relief is against all of the defendants.

42. Paragraphs 1-40 are incorporated in this First Claim For Relief as if set out herein in full.

43. The false and/or distorted statements and/or omissions described or referred to under paragraphs 11, 12, 13, 14, and 21 hereinabove and the deliberate withholding of information described under

paragraph 22 hereinabove falsely defame the Plaintiff, demean him professionally and are libelous and/or slanderous to the Plaintiff. These statements and/or omissions were carried out with wanton and willful disregard for the rights of the Plaintiff and were made due to actual malice on the part of the defendants with all of the defendants having some input into the statements and/or omissions.

44. As the result of the statements libelous and/or slanderous to him referred to under paragraph 43 hereinabove, the Plaintiff has suffered special damages in the form of lost professional fees, office and secretarial expenses and has suffered general damages including severe emotional stress, loss of sleep, excessive esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional

fees.

45. The wrongful non-libelous and non-slanderous acts and/or omissions of the defendants referred to under paragraphs 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 24 25, 27 and 28 hereinabove constitute aggravating circumstances in this First Claim For Relief. The wrongful acts and/or omissions of the defendants referred to under paragraphs 29, 30, 31, 32, and 35 plus activities of the Plaintiff described under paragraph 39 hereinabove constitute aggravating circumstances in the First Claim For Relief. The existence of the contract referred to under paragraph 36 hereinabove is an aggravating circumstance in this First Claim For Relief.

46. The Plaintiff is entitled to punitive damages in connection with this claim for relief.

SECOND CLAIM FOR RELIEF
(Conspiracy)

47. This Second Claim For Relief is against all of the defendants in this action.

48. Paragraphs 1 through 46 hereinabove are incorporated in this Second Claim For Relief as if set out in full herein.

49. Some of the acts and/or omissions referred to under paragraphs 11, 12, 13, 14, 15, 16, 20, 21, 22, 25, 27, 28, and 35 hereinabove occurred as a part of and/or as a result of a conspiracy on the part of the defendants in this action. This conspiracy was entered into with wanton and willful disregard for the rights of the Plaintiff and was entered into due to actual malice on the part of the defendants.

50. As a result of the conspiracy referred to under paragraph 49 hereinabove, the Plaintiff has suffered special damages in the form of lost professional

fees, office and secretarial expenses and has suffered general damages including loss of sleep, severe emotional stress, excessive esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional fees.

51. The wrongful acts and/or omissions of the defendants referred to under paragraphs 10, 24, 29, 30, 31 and 32 hereinabove constitute aggravating circumstances in the Second Claim For Relief. The existence of contracts referred to under paragraph 36 hereinabove is an aggravating circumstance in this Second Claim For Relief. The Plaintiff's long record of able and loyal service referred to under paragraph 39 hereinabove is an aggravating circumstance in this claim for relief.

52. The Plaintiff is entitled to punitive damages in connection with

this claim for relief.

THIRD CLAIM FOR RELIEF
(Fraud)

53. This Third Claim For Relief is against all of the defendants.

54. Paragraphs 1 through 52 are incorporated in this Third Claim For Relief as if set out herein in full.

55. Some of the acts and/or omissions referred to under paragraphs 12, 13, 14, 15, 16, 17, 20, 21 and 22 hereinabove constitute fraud and/or attempted fraud on the part of the defendants with the fraud and/or attempted fraud being directed against the Plaintiff, Robert Edmondson, Jr. and his family. The fraud was carried out with wanton and willful disregard for the rights of the Plaintiff and was due to actual malice on the part of some or all of the defendants.

56. As a result of the fraud and/or attempted fraud referred to under

paragraph 55 hereinabove, the Plaintiff has suffered special damages in the form of lost professional fees, office and secretarial expenses and has suffered general damages including severe emotional stress, loss of sleep, excessive esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional fees.

57. Some of the acts and/or omissions of Hillhaven management referred to under paragraphs 24, 25, 27, 28, 29, 30, 31, 32, and 35 and the Plaintiff's activities referred to under paragraph 39 hereinabove are aggravating circumstances in this Third Claim For Relief. The existence of contracts referred to under paragraph 36 hereinabove is an aggravating circumstance in this Third Claim For Relief.

58. The Plaintiff is entitled to punitive damages in connection this claim for relief.

FOURTH CLAIM FOR RELIEF
(Harassment)

59. This Fourth Claim For Relief is against all of the defendants.

60. Paragraphs 1 through 58 hereinabove are incorporated in this claim for relief as if set out herein in full.

61. Some of the acts and/or omissions referred to under paragraphs 11, 12, 13, 14, 15, 16, 24, 25, 27, 28, 31 and 35 hereinabove were carried out for the purpose of harassing the Plaintiff and intentionally inflicting emotional distress on him in an effort to get him to resign as Medical Director at University Nursing Center and/or in an effort to get the Plaintiff to terminate or greatly restrict his activities as an attending physician at University Nursing Center. The harassment was carried out with wanton and willful disregard for the rights of the Plaintiff and was due to actual malice on the part of some or all of the defendants.

62. As a result of the harassment referred to under paragraph 61 hereinabove, the Plaintiff has suffered special damages in the form of lost professional fees, office and secretarial expenses and has suffered general damages including severe emotional stress, loss of sleep, increased esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional fees.

63. Some of the acts and/or omissions of Hillhaven, Inc. management referred to in paragraphs 29, 30, 32, and 30 hereinabove and the Plaintiff's activities referred to under paragraph 39 hereinabove are aggravating circumstances in this Fourth Claim For Relief. The existence of contracts referred to under paragraph 36 hereinabove is and aggravating circumstance in this claim for relief.

64. The Plaintiff is entitled to punitive damages in connection this claim

for relief.

FIFTH CLAIM FOR RELIEF

(Interference With Right to Privacy)

65. This Fifth Claim For Relief is against all of the defendants.

66. Paragraphs 1 through 64 hereinabove are incorporated in this claim for relief as if set out herein in full.

67. Some of the acts and/or omissions referred to under paragraphs 10, 11, 12, 13, 14, 15, 20, 21, 22, 25, 29, 30, 31, 32, 33, and 34 create a false light regarding the Plaintiff and his activities and thereby interfere with his right to privacy. The interference with the Plaintiff's right to privacy was carried out with wanton and wilful disregard for the rights of the Plaintiff and was due to actual malice on part of some or all of the defendants.

68. As a result of the interference with his right to privacy, the Plaintiff has suffered special damages in the form of

lost professional fees, office and secretarial expense and has suffered general damages including severe emotional stress, loss of sleep, increased esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional fees.

69. Some of the acts and/or omissions referred to under paragraphs 16, 17, 24, 27, 28 and the circumstances referred to under paragraph 35 hereinabove are aggravating circumstances in this Fifth Claim For Relief. The presence of contracts referred to under paragraph 36 hereinabove is an aggravating circumstance in this Fifth Claim For Relief.

70. The Plaintiff is entitled to punitive damages in connection with this claim for relief.

SIXTH CLAIM FOR RELIEF

(Breach Of Contract)

71. This Sixth Claim For Relief

is against all of the defendants.

72. Paragraph 79 hereinbelow and paragraphs 1 through 70 hereinabove are incorporated in this claim for relief as if set out herein in full.

73. Some of the acts and/or omissions referred to in paragraphs 10, 11, 12, 13, 14, 15, 16, 20, 21, 22, 24, 25, 27, 28, 29, 30, 31, 32, 33, and 34 breeched the Medical Director's contract and/or the attending physician's contract that was in effect between the Plaintiff and Hillhave, Inc. and/or University Nursing Center, Inc. The breeches of contract (s) were carried out with wanton and willful disregard for the right of the Plaintiff and were due to actual malice on the part of some or all of the defendants.

74. As a result of the breeches of contract (s) referred to under paragraph 73 hereinabove, the Plaintiff has suffered special damages in the form of lost

professional fees, office and secretarial expenses and he has suffered general damages including loss of sleep, severe emotional stress, excessive esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional fees.

75. The circumstances described under paragraph 35 hereinabove constitute aggravating circumstances in this claim for relief as does the Plaintiff's record of able and loyal service referred to under paragraph 39 hereinabove. Interference with contracts as referred to under paragraph 79 hereinbelow is an aggravating circumstance in this claim for relief.

76. The Plaintiff is entitled to punitive damages in connection with this claim for relief.

SEVENTH CLAIM FOR RELIEF

Interference With Contracts)

77. This Seventh Claim For

Relief is against all of the defendants.

78. Paragraphs 1 through 76 are incorporated in this claim for relief as if set out hererein in full.

79. Some of the acts and/or omissions referred to under paragraphs 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 24, 25, 27, and 28 hereinabove interfered with contracts in effect between the Plaintiff and Robert Edmondson, Jr. and/or other patients of the Plaintiff who are, or were, residents at University Nursing Center. The interferences with contracts were carried out with wanton and willful disregard for the rights of the Plaintiff and occurred due to actual malice on the part of some or all of the defendants.

80. As a result of the interferences with contracts referred to under paragraph 79 hereinabove, the Plaintiff has suffered special damages in the form of lost professional fees, office and

secretarial expenses and he has suffered general damages including loss of sleep, severe emotional stress, excessive esophageal reflux, increased migraine headaches, damage to his professional and personal reputation and future loss of professional fees.

81. Some of the acts and/or omissions of the defendants referred to under paragraphs 28, 29, 30, 31, 32, and 35 hereinabove and the circumstances referred to under paragraph 35 hereinabove constitute aggravating circumstances in this claim for relief as does the Plaintiff's record of able and loyal service referred to under paragraph 39 hereinabove. The contracts in effect between Hillhaven, Inc. and the Plaintiff, referred to under paragraph 36 hereinabove, are an aggravating circumstance in this claim for relief.

82. The Plaintiff is entitled to punitive damages in connection with this

claim for relief.

EIGHTH CLAIM FOR RELIEF
(Solicitation Of Fraud)

83. This Eighth Claim For Relief is against Defendant Hillhaven, Inc. and Defendant William McConnell, Jr.

84. Paragraphs 1 through 82 are incorporated in this claim for relief as if set out herein in full.

85. Some of the acts and/or omissions referred to under paragraph 25 hereinabove occurred due to an effort to induce the Plaintiff to order unneeded ambulance for Willie Epps. Such acts and/or omissions constitute solicitation of fraud.

86. As a result of the solicitation of fraud referred to under paragraph 85 hereinabove, the Plaintiff has suffered special damages in the form of lost professional fees, office and secretarial expenses and he has suffered general damages including loss of sleep, severe emotional distress, increased esophageal reflux, increased

migraine headaches damage to his professional and personal reputation and future loss of professional fees.

87. Some of the acts and/or omissions referred to under paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36 constitute aggravating circumstances in this eighth claim for relief. The Plaintiff's activities referred to under paragraph 39 hereinabove is an aggravating circumstance in this claim for relief as are the contracts referred to under paragraph 36 hereinabove.

WHEREFORE, the Plaintiff respectfully prays the Court:

a. That the Plaintiff have and recover from the defendants, both jointly and severally;

(1) Judgement in the sum of Twenty Five Thousand Dollars (\$25,000.00) as compensation for special damages, with interest thereon.

(2) Judgement in the sum of Two Million Dollars (\$2,000,000.00) as compensation for general damages, with interest thereon.

(3) Judgement in the sum greater than ten thousand dollars (\$10,000.00) as compensation for punitive damages, with interest thereon.

b. That the defendants be taxed with the costs of this action.

c. For a jury trial as to all issues properly triable thereby.

d. For such other and further

relief as the Court may deem just and proper.

S/Joseph M. Ward
Joseph M. Ward
121 West Power Street
Ayden, N.C. 28513
Telephone: (919) 746-3191
Plaintiff

NORTH CAROLINA

PITT COUNTY

JOSEPH M. WARD, first being duly sworn, deposes and say:

That he is the plaintiff in the foregoing action; that he has read the foregoing Amended Complaint And Demand For Jury Trial and that the contents of said Amended Complaint And Demand For Jury Trial are true to his own knowledge except as to those matters stated on information and belief and as to those matters he believes them to be true.

S/ Joseph M. Ward

JOSEPH M. WARD

Sworn to and subscribed before me this the 24th day of May , 1988.

S/ Eliza J. Richardson

NOTARY PUBLIC

My Commission Expires: Dec. 17, 1992

No.

THREE-A DISTRICT

NORTH CAROLINA COURT OF APPEALS

JOSEPH M. WARD

From Pitt County
No. 88 CVS 560

v.

HILLHAVEN, INC., THE HILLHAVEN
CORPORATION, NATIONAL MEDICAL
ENTERPRISES, IN., WILLIAM
MCCONNELL, JR.
JEFFREY M. MCKAIN

ASSIGNMENT OF ERROR

The Plaintiff-Appellant assigns as error the Honorable David E. Reid, Jr.'s Order granting the defendants' Motion to Dismiss in its entirety because the dismissal is contrary to law and violates the Plaintiff-Appellant's rights to due process of law and equal protection of the laws pursuant to the 5th and 14th amendments of the United States Constitution.

Exception, pp 51-52